

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed August 13, 2003. In order to advance prosecution of this case, Applicants amend Claims 1, 46, and 88. Applicants respectfully request reconsideration and favorable action in this case.

**Reasons for Amendments after Final**

Claim 1, as amended, recites: "generating a first response to the request based on the availability of the wireless service, the first response including one or more terms for the wireless service including at least one option between the at least two service providers; and receiving a second response to the first response, the second response selecting at least one of the at least two service providers to provide the wireless service." Claims 46 and 88, as amended, include analogous language. Applicants respectfully submit that these amendments place the claims in better condition for allowance for the reasons presented below, which may be generally summarized as showing that the cited references do not show the presentation of an option between at least two service providers for a requested wireless service. These amendments were not presented earlier because amendments submitted in response to the last Office Action sufficed to overcome the previous grounds of rejection, and the current amendments have only become necessary in light of the newly cited references in the Final Office Action.

**Section 103 Rejections**

The Examiner rejects Claims 1-15, 19-20, 24-25, 46, 48-61, 65-66, and 69-70 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,301,359 issued to Van Den Heuvel et al. ("Van den Heuvel") in view of U.S. Patent No. 5,594,947 issued to Grube et al. ("Grube"). As amended, Claims 1 recites "generating a first response to the request based on the availability of the wireless service, the first response including one or more terms for the wireless service including at least one option between the at least two service providers; and receiving a second response to the first response, the second response selecting at least one of the at least two service providers to provide the wireless service," and Claim 46 includes analogous language. The Van den Heuvel-Grube combination fails to teach, suggest, or disclose each and every limitation of Claims 1 and 46. Specifically, Van den Heuvel and Grube fail to provide any teaching regarding multiple providers of a requested wireless service or services, much less the particular limitations of Claims 1 and 46.

Van den Heuvel teaches the use of unselected transceivers, corresponding to different communications systems (col. 3, lines 1-4), in monitoring available systems (col. 4, lines 32-46). But such monitoring does not provide multiple options for service in response when an initially-requested service is available. Indeed, Van den Heuvel teaches away from providing such options by emphasizing the use of standards to facilitate rapid acquisition of a single communication system corresponding to a particular

communication type<sup>1</sup>. Similarly, Grube teaches a request for a type of wireless service (col. 2, lines 38-49), and an alternate request for other types of service (col. 3, lines 38-46). However, it does not teach the provision of multiple provider options when an initially requested service is available. Nor does U.S. Patent No. 5,581,802 issued to Erickson et al. ("Erickson"), cited by the Examiner in rejecting Claims 88-90, provide any additional teaching that cures the deficiency. Erickson teaches retrieving information about the previous availability of communication services if the requested communication service is not available, and even in that case, requires a separate request for each requested wireless service to confirm the current availability of the service (col. 4, line 62 - col. 5, line 12). Because these additional requests increase the overall number of communication requests, Erickson teaches away from additional requests to other service providers when a first service provider is available.<sup>2</sup> Thus, Erickson teaches away from the recited limitations of Claims 1 and 46.

From the arguments presented above, it is apparent that the recited elements of Claims 1 and 46 are not taught by any of the cited references. But even if these elements could be produced by a combination or modification of the teaching of the cited references, there would be no motivation within the

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<sup>1</sup>"Preferably, this outbound resource will be substantially universally standardized for this particular function to enable rapid acquisition of the bulletin board resource by a communication unit. In the alternative, the particular outbound resource used by a particular bulletin board controller may be one of a number of resources that are dedicated to and standardized for transmission of bulletin board information." Van den Heuvel, col. 3, lines 40-47.

<sup>2</sup>"It is possible that a large number of subsequent requests may be required before the user succeeds, if in fact success is ever achieved. This process wastes communication resources for the failed service requests, and also contributes to frustration for the user trying to access the system." Erickson, col. 1, lines 30-35.

references to perform such a combination or modification. Each of the cited references teaches a method of accessing a primary mode of communication quickly, and providing an alternative method of communication only as a contingency for the unavailability of the primary mode of communication. Modifying the teaching of any of the references in such a way that would increase the complexity of reaching the initial service, such as invoking a method for determining availability of alternative services in case of unavailability of the requested service, would be counter-productive to the primary aim of the references without advancing any other purpose presented in the references. For at least these reasons, Applicants respectfully submit that the rejected claims are allowable over the cited references, and accordingly, Applicants respectfully request reconsideration and allowance of these claims.

The Examiner rejects Claims 88-90 under 35 U.S.C. § 103(a) as being unpatentable over Van den Heuvel in view of *Erickson*. Claim 88 recites "the terms include at least one option between at least two service providers of the requested wireless services available," which is analogous to the limitations of Claims 1 and 46 recited above. For reasons analogous to those presented above with respect to Claims 1 and 46, Claim 88 is allowable over the cited references. For at least those reasons, Applicants respectfully request reconsideration and allowance of Claims 88-90.

The Examiner rejects Claims 16-17 and 62-63 under 35 U.S.C. § 103 (a) as being unpatentable over Van den Heuvel and Grube in view of U.S. Patent No. 6,064,972 issued to Jankowitz et al. ("*Jankowitz*"). These claims all depend, directly or indirectly, from claims that are allowable for at least the

reasons stated above. Applicants, therefore, respectfully request reconsideration and allowance of these claims.

The Examiner rejects Claims 18, 21, 47, 64, 67, and 91 under 35 U.S.C. § 103(a) as being unpatentable over Van den Heuvel, Grube, Erickson, and Jankowitz in view of U.S. Patent No. 5,961,569 issued to Craport et al. ("Craport"). These claims all depend, directly or indirectly, from claims that are allowable for at least the reasons stated above. Applicants, therefore, respectfully request reconsideration and allowance of these claims.

The Examiner rejects Claims 22-23, 68 and 92 under 35 U.S.C. § 103(a) as being unpatentable over Van den Heuvel, Grube, and Erickson in view of U.S. Patent No. 6,424,646 issued to Gerszberg et al. ("Gerszberg"). These claims all depend, directly or indirectly, from claims that are allowable for at least the reasons stated above. Applicants, therefore, respectfully request reconsideration and allowance of these claims.

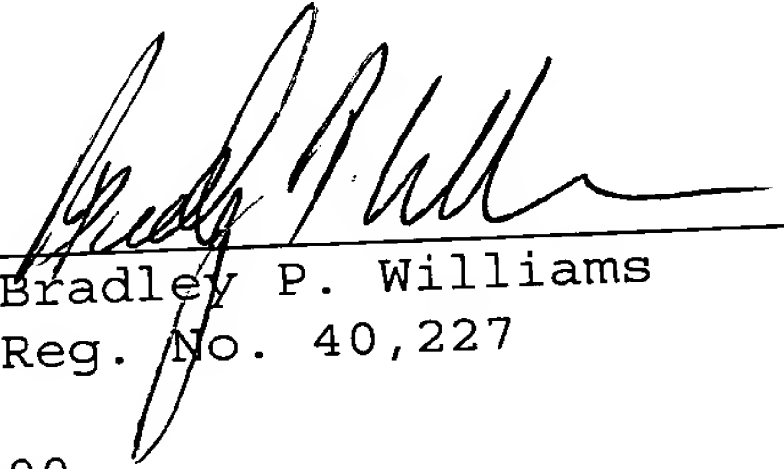
Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

No fees are believed to be due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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